

**IN THE GENERAL SESSIONS COURT, MISDEMEANOR DIVISION,**

**FOR KNOX COUNTY, TENNESSEE**

**COPY**

**IN RE:        PETITION OF  
              KNOX COUNTY DISTRICT PUBLIC DEFENDER**

**ORDER**

Mark E. Stephens the elected District Public Defender for the Sixth Judicial District filed a Petition in the Knox County General Sessions Court, to suspend the appointment of his office to defendants in the Misdemeanor Division of General Sessions Court. The Petition seeking relief was addressed to all five sitting judges of the General Sessions Court. A hearing was conducted in June of 2008 before the judges in which witnesses were heard and other evidence presented in support of the Public Defender's Motion. Since then a post hearing memorandum and other exhibits have been presented.

The Sixth District Public Defender seeks this relief under the authority of Supreme Court 13, Section 1(e)(4)(D). The Public Defender constitutes professional standards require that attorneys representing those accused of crimes to meet certain performance measures. Those measures include:

- A. Establishing a relationship of trust and confidence with the accused;
- B. Communicating with the client the objectives of the representation;
- C. Insuring privacy essential for confidential communication;
- D. Seeking to determine all relevant facts of the case as soon as practical;

E. Advisement of rights;

F. Consideration of procedural steps including, but not limited to, issues considering bond and pre-trial release, moving to suppress to illegally obtained evidence, conducting prompt investigations of the circumstances of the case, reviewing and discussing all facts and aspects of the case including honest estimates of probable outcome.

The Public Defender alleges that the office has a conflict recognized under Rule 13 because of an excessive case load that prevents their office lawyers with providing effective representation under the aforementioned standards.

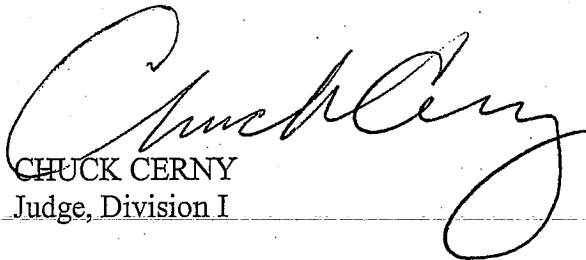
From the review of pleadings and evidence presented and the record as a whole, we find that the attorneys in the Public Defender's Office carry case loads that exceed national criminal justice standards and goals. This Court does not conclude, however, that the case load is a such a level as to violate the accused the right to have competent counsel under either the United States Constitution or the Constitution of the State of Tennessee.

The ultimate issue is whether or not the District Public Defender has made a clear and convincing showing that the case load is so excessive to prevent counsel from rendering effective representation. The evidence received by this Court shows that the actual case load of the Public Defender has been trending downward over the past two years. In addition, the District Public Defender has sought and received relief in the form of the suspension of appointment to cases in two divisions of the Knox County Criminal Court for the past five months. The amount of cases assigned to the Public Defender in all courts in Knox County are always fluctuating and, in fact, the Public Defender is now being assigned to

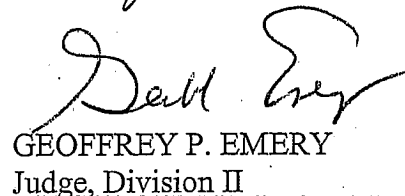
cases in the two divisions where the appointments were suspended.

The Court, therefore, holds that a conflict does not exist at this time to the extent that relief can be granted as sought. As sure as case loads can fall they can also rise especially in these economic times. It is incumbent upon those of us in the criminal justice system to strive to reach the goals and standards wherever possible. It is the mission of this Court to continue to monitor case load numbers and reviewing the on a systematic calendar quarter that the to see that case loads are manageable and that effective representation of all defendants is achieved.

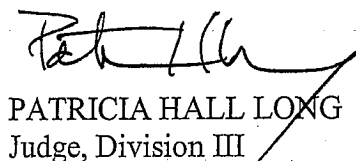
ENTER this 20th day of February, 2009.



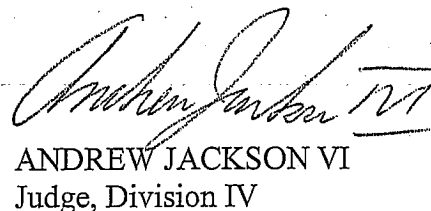
CHUCK CERNY  
Judge, Division I



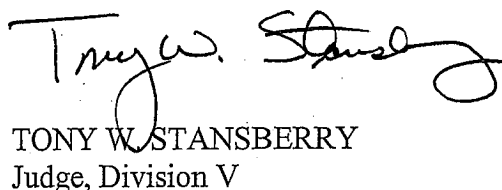
GEOFFREY P. EMERY  
Judge, Division II



PATRICIA HALL LONG  
Judge, Division III



ANDREW JACKSON VI  
Judge, Division IV



TONY W. STANSBERRY  
Judge, Division V